



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

vm

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,297	10/02/2001	Sean S. Chen	NSC-P05052	9656

7590

02/28/2003

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

EXAMINER

CUNNINGHAM, TERRY D

ART UNIT	PAPER NUMBER
----------	--------------

2816

DATE MAILED: 02/28/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/970,297

Applicant(s)

CHEN, SEAN S.

Examiner

Terry D. Cunningham

Art Unit

2816

-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

New Matter

The amendment filed 29 January 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is the limitation that the “voltage pull-up device is implemented as a transistor with less than $1.0 V_{BE}$ ”.

Firstly, there is no “pull-up device” found to be disclosed that is a “transistor”. The only element found to be disclosed that is a “pull-up device” that meets the claim limitations is element 214,314. However, there is no disclosure of element 214 or 314 being a “transistor”.

Secondly, the only disclosure of a transistor having “less than $1.0 V_{BE}$ ” found disclosed is for transistor 209, which is the “buffer circuit”, not the “pull-up circuit”.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 and 11-23 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Art Unit: 2816

There is no support found in the original specification for the “pull-up device” is implemented as a transistor with less than $1.0 V_{BE}$ ” for similar reasons as discussed above.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 14 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5, 14 and 22 expressly contradict claims 1, 7 and 16, respectively. Since claims 1, 7 and 16 state that the “pull-up device” is a “transistor”, it is clearly not a “resistor” as recited in claims 5, 14 and 22.

Claim Rejections - 35 USC § 103

The following modification to the rejection is necessitated by amendment.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Kadanka et al. (USPN 5,621,308) in view of newly cited art to Gross (USPN 5,517,143). Kadanka et al. disclose, in Fig. 2, a circuit comprising: “a band-gap reference circuit (73)”; “a buffer circuit (54)”; and “a voltage pull-up device (70)” wherein the “voltage pull-up device” has a “resistor” 41 and/or a “transistor” 48.

Art Unit: 2816

While the reference to Kadanka et al. expressly discloses that the “pull-up device” 70 has a “transistor” 48, such does not expressly disclose that such has “less than 1.0 V_{BE} ”. Device 70 is a current mirror, thus V_{BE} of 48 has virtually no affect on the operation the circuit. It is notoriously well known, as expressly disclosed in lines 8-17 of Col. 8 of Gross, that it is conventional to use transistor having a V_{BE} with of 0.7 volts (which is less than 1.0 V_{BE}). Therefore, since the current mirror of Kadanaka et al. will mirror the current regardless of the value the transistor V_{BE} and since transistors having a V_{BE} of 0.7 volts, it would have been obvious for one skilled in the art to use such transistor in the circuit to Kadanka for the purposes of design choice.

Examiner has fully considered Applicant’s remarks for the above rejection and has not found them to be persuasive. Further, Applicant’s remarks are not understood or seen to be relevant. It is not at all seen that the discussion in Col. 3, line 29, of Kadanka et al. has nothing to do with the “pull-up device” 70. The fact that this resistor is large would not provide the supply from being minimized, quite the contrary. The larger the resistance, the higher the voltage to the gate of 54, which will raise the output voltage at node 50. Thus, a lower supply voltage can be used.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

Art Unit: 2816

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terry Cunningham whose telephone number is 703-308-4872. The examiner can normally be reached on Monday-Thursday from 7:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy P. Callahan can be reached on 703-308-4876. The fax phone numbers for Technology Center 2800 are 703-872-9318 for Before Final communications and 703-872-9319 for After Final communications. Please note, any faxed paper clearly stating **DRAFT** or **PROPOSED AMENDMENT** at the top will be forwarded directly to the Examiner. All others will be treated as a formal response and acted upon accordingly.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-308-0956.

TC
February 26, 2003


Terry D. Cunningham
Primary Examiner
Art Unit 2816